



February 19, 2019

Via ECF

The Honorable Analisa Torres  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

**Re: Cruz et. al. v. U.S. Dep't of Health and Human Serv. et al., No. 18-cv-6371 (AT)**

Dear Judge Torres:

I write on behalf of Plaintiffs pursuant to this Court's Order dated January 2, 2019, requiring Plaintiffs to file a status report "informing the Court about the implementation of the new liver policy" and "if necessary, an amended complaint." Dkt. No. 31.

The new liver policy is still officially scheduled to be implemented as of April 30, 2019, however there is heightened concern that the implementation will be delayed or stymied by those that benefit from the current, illegal policy. This concern is caused by increasing rhetoric from those that oppose equitable liver allocation<sup>1</sup> as well as the delayed implementation of the National Liver Review Board (NLRB).

When the new liver policy was passed by the OPTN Board of Directors on December 3, 2019, the expectation was that the new liver policy would be effective three months after the implementation of the NLRB, which was scheduled to take place on January 31, 2019. Recently, OPTN delayed the implementation of the NLRB for 6 to 8 weeks. While the OPTN currently still expects to implement the new liver policy on April 30, 2019, the delayed implementation of the NLRB – which was intended to precede the new liver policy by three months – increases Plaintiffs' concern about the implementation of the new policy.

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<sup>1</sup> See e.g., Letter from various senators to Secretary Azar dated January 22, 2019 ([https://www.blunt.senate.gov/imo/media/doc/Liver%20Transplant%20Letter\\_Final%20Signed%20Copy%20.pdf](https://www.blunt.senate.gov/imo/media/doc/Liver%20Transplant%20Letter_Final%20Signed%20Copy%20.pdf)).

**BSF**

In light of these developments, Plaintiffs respectfully request that this Court continue this matter as a stayed matter until May 5, 2019, so that Plaintiffs can continue monitoring the implementation of the new policy and either dismiss or amend the complaint depending on whether there is any delay in the implementation of the new liver policy. Defendant United Network for Organ Sharing (UNOS) takes no position on the substance of this letter but agrees that a stay is necessary.

Respectfully submitted,



Motty Shulman

GRANTED. The case is STAYED until **May 5, 2019**. By **May 5, 2019**, Plaintiffs shall file a letter updating the Court how they wish to proceed.

SO ORDERED.

Dated: February 19, 2019  
New York, New York



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ANALISA TORRES  
United States District Judge